

Before the
Federal Communications Commission
Washington, D.C. 20554

In re)	
)	
MARITIME COMMUNICATIONS/LAND)	EB Docket No. 11-71
MOBILE, LLC)	File No. EB-09-IH-1751
)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of)	
Various Authorizations in the Wireless Radio)	
Services)	
)	
Applicant for Modification of Various)	Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services)	0004193028, 0004193328, 0004354053,
)	0004309872, 0004314903, 0004315013,
Applicant with ENCANA OIL AND GAS (USA),)	0004430505, 0004417199, 0004419431,
INC.; DUQUESNE LIGHT COMPANY; DCP)	0004422320, 0004422329, 0004507921,
MIDSTREAM, LP; PUGET SOUND)	and 0004604962
ENERGY, INC.; ENBRIDGE ENERGY)	
COMPANY, INC.; INTERSTATE POWER)	
AND LIGHT COMPANY; WISCONSIN)	
POWER AND LIGHT COMPANY; DIXIE)	
ELECTRIC MEMBERSHIP CORPORATION,)	
INC.)	

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

JOINT STATUS REPORT AND MOTION TO STAY

1. The Enforcement Bureau (Bureau), Maritime Communications/Land Mobile, LLC (Maritime), and Choctaw Telecommunications, LLC and Choctaw Holdings, LLC (collectively, Choctaw) herein jointly respond to the Presiding Judge's *Order*, FCC 15M-29, requesting a status report concerning the above-captioned matter.¹ For the reasons detailed below, the Bureau, Maritime, and Choctaw respectfully request that the Presiding Judge stay the

¹ See *Order*, FCC 15M-29 (ALJ, rel. Nov. 16, 2015).

above-captioned matter until the Commission rules on Maritime's and Choctaw's pending petitions for reconsideration of the Commission's *Memorandum Opinion and Order (Order)* denying Maritime and Choctaw relief pursuant to the *Second Thursday* doctrine.²

2. In October 2011, the Presiding Judge effectively stayed consideration of all of the Issues designated for hearing in the Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing (HDO)³ except for Issue (g) pending resolution of Maritime's and Choctaw's request for extraordinary relief pursuant to the Commission's *Second Thursday* doctrine.⁴

3. On September 11, 2014, the Commission denied Maritime's and Choctaw's request for such relief, concluding that Maritime and Choctaw failed to demonstrate that Donald DePriest, one of the individuals suspected of misconduct, “will either derive no benefit from favorable action on the applications or only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors.”⁵ In particular, the Commission found that “there [was] a substantial possibility that granting the application would permit the DePriests to obtain a benefit that is neither minor nor incidental by releasing Mr. DePriest from his obligations under his personal guarantees of loans to [Maritime].”⁶

4. As a result, the Presiding Judge lifted the stay concerning the additional Issues in the HDO and instructed the parties to commence with “discovery of issues pertaining to

² *Maritime Communications/Land Mobile, LLC*, Memorandum Opinion and Order, FCC 14-133 (rel. Sept. 11, 2014).

³ See *Maritime Communications/Land Mobile, LLC*, Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing, EB Docket No. 11-71, 26 FCC Rcd 6520 (2011) (HDO).

⁴ See, e.g., October 25, 2011 Prehearing Conference Transcript at pp. 249-257.

⁵ *Order*, FCC 14-133, at 8, ¶ 20 (citations omitted).

⁶ *Id.*

Maritime's basic qualifications."⁷ The Bureau conducted extensive discovery of these additional Issues (Phase II). The discovery period for Phase II closed on October 31, 2015.⁸ The parties do not anticipate needing additional document discovery or depositions on Phase II.

5. Before the parties could discuss a proposed pre-hearing schedule to present to the Presiding Judge, however, Maritime and Choctaw each requested leave to file a supplement to their pending petitions for reconsideration of the Commission's *Order*.⁹ In these supplemental pleadings, Maritime and Choctaw state that the U.S. Bankruptcy Court for the Northern District of Mississippi has now issued an order discharging Mr. DePriest's debts, including the guarantees of Maritime's creditors that were the basis for the Commission's *Order*.¹⁰ Pursuant to Section 727 of the U.S. Bankruptcy Code, Mr. DePriest is no longer liable for these debts.¹¹ Consequently, Mr. DePriest could not receive any benefit from being relieved of the obligation to pay these debts if the Commission granted Maritime and Choctaw's request for *Second Thursday* relief and the creditors were repaid from the proceeds from the assignment of the licenses. As this potential benefit to Mr. DePriest was the only stated reason for the Commission's denial of *Second Thursday* relief, the parties agree that reconsideration of the

⁷ *Order*, FCC 14M-30 (ALJ, rel. Oct. 1, 2014), at 2.

⁸ *See Order*, FCC 15M-27 (ALJ, rel. Aug. 25, 2015).

⁹ *See* Motion for Leave to Supplement Petition for Reconsideration, filed Nov. 6, 2015. Maritime concurrently filed its Supplement to Petition for Reconsideration, filed Nov. 6, 2015 (Maritime's Supplement). *See* (Choctaw's) Motion for Leave to Supplement Petition for Reconsideration; (Choctaw's) Supplement to Petition for Reconsideration, filed concurrently on Nov. 9, 2015 (Choctaw's Supplement).

¹⁰ *See, e.g.*, Maritime's Supplement at 2 and Attachment No 1 thereto; Choctaw's Supplement at 2 and Exhibits 1 and 2 thereto. Subsequent to the issuance of the Commission's *Order*, involuntary Chapter 7 bankruptcy proceedings were initiated against Mr. DePriest personally by several of his creditors. *See In re Donald R. DePriest*, Case No. 14-135322 (U.S. Bankr. N.D. Miss., filed Sept. 21, 2014), a separate proceeding from the Maritime bankruptcy. On October 27, 2015, the court entered an order discharging Mr. DePriest's personal debts, including the personal guarantees of loans to Maritime.

¹¹ *See, e.g.*, 11 U.S.C. § 727(a) ("a discharge under subsection (a) of this section discharges the debtor from all debts that arose before the date of the order for relief under this chapter").

Order is now appropriate.¹²

6. In light of these developments, the Bureau, Maritime, and Choctaw respectfully request that the Presiding Judge stay Phase II of the above-captioned matter until the Commission has ruled on Maritime's and Choctaw's petitions for reconsideration. The parties suggest that it would be an inefficient use of the Bureau's, the parties', and the Office of Administrative Law Judge's resources to prepare this case for hearing when the Commission's ruling on Maritime's and Choctaw's petitions may moot the very Issues on which such a hearing would focus. As a result of this request for a stay, the parties suggest it is premature to estimate the amount of time necessary for a hearing on Phase II, to identify a possible date for that hearing, or to otherwise present a pre-hearing schedule at this time.¹³ The parties are willing, however, to submit their conclusions of law concerning Issue (g) at the convenience of the Presiding Judge.¹⁴

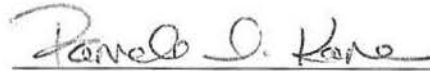
¹² See *supra* note 9; see also Enforcement Bureau's Response to MCLM's and Choctaw's Motions for Leave to Supplement Their Petitions for Reconsideration, filed Nov. 12, 2015.

¹³ With regard to the status of the Maritime bankruptcy, the United States Bankruptcy Court for the Northern District of Mississippi entered its order confirming the First Amended Plan of Reorganization (Reorganization Plan) on January 11, 2013. See *Order Confirming Plan of Reorganization*, Case No. 11-13463-DWH (Bankr. N.D. Miss. Jan. 11, 2013). The Reorganization Plan outlines ten classifications of creditors, including unsecured creditors, and the anticipated payment to each of these classes. Pursuant to the Reorganization Plan, any claims held by the DePriests will not be repaid. The Reorganization Plan contemplates the assignment of the Maritime licenses to Choctaw, who would then be responsible for repaying Maritime's creditors pursuant to the terms therein. The application to assign Maritime's licenses to Choctaw remains pending and no further proceedings before the bankruptcy court are anticipated at this time.

¹⁴ Counsel for Maritime and Choctaw have reviewed this pleading and authorize counsel for the Bureau to file it on their behalf.

Respectfully submitted,

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November 18, 2015

CERTIFICATE OF SERVICE

Alicia McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 18th day of November, 2015, sent by first class United States mail copies of the foregoing "JOINT STATUS REPORT AND MOTION TO STAY" to

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